

Remarks

Claims 1, 12, 13, 15 and 18 have been amended. Claims 1-18 remain in the application. Reconsideration of the rejections and objections at an early date is requested.

The examiner objected to the drawings, stating that Figs. 1 and 2 do not clearly show the intended structure due to solid black shading, and stating that Figs. 3 and 4 are not in English. Replacement drawing sheets in compliance correcting these objections are submitted herewith.

The examiner objected to informalities cited in paragraph 3 of the Office Action. The amendments to the specification correct these informalities.

The examiner rejected claims 1-18 under 35 U.S.C. 112, second paragraph, as being indefinite. Regarding the rejection of claims 1 and 15 reciting both a broad and narrow recitation of limitation, both claims have been amended to delete the more narrow exemplary limitation.

Claims 12 and 13 were rejected since the reference to “container” was unclear. The claims have been amended to recite the “second container.” It is submitted that this overcomes this basis for rejection of these claims. Regarding the examiner’s statement that the claims are further considered indefinite because it is unclear what is connected to the container, the Applicants respectfully traverse this rejection and request that the examiner reconsider his position. The claims appear to clearly state that the second container is connected to either a rinsing liquid supply connection (claim 12) or another gas supply connections (claim 13) by way of a gas and rinsing liquid connection line having a sterile filter. This is further made clear by

reference to Figs. 1 and 2, where it is seen that the connecting line 20 and filter 21, 26 are located between the container 18 and the connecting connection 22 or 23.

Claims 1-4, 9 and 14 were rejected under 35 U.S.C. 102(b) as being anticipated by Endo et al. (U.S. Patent No. 4,501,161). However, Endo et al. does not disclose a filter membrane arranged within a sample probe which comprises a material acting as a sterile boundary. The device according to Endo et al. comprises filtering tubes 3 and 3' which each have porous or permeable parts 11, 11' respectively. It is not specified in this reference that parts 11 or 11' are made from of a material acting as a sterile boundary. In column 2, line 42, of the specification of Endo et al., it is only stated that insoluble solids are filtered out by porous part 11. It is thus specified that these parts act as filter, but it is not said that these parts also act as sterile boundary, which is not at all equivalent. Moreover, in column 2, lines 53 – 68, it is clearly said that the device of Endo et al. operates differently. That is, in the device of Endo et al., each tube 3 and 3' is used both as supply and as discharge line. Therefore, each of these tubes 3 and 3' has its own filtering part 11, 11'. Thus, the device of Endo et al. does not have a filter membrane on the sterile boundary side of which are arranged both the supply line and the discharge line, such as it is the case in the presently claimed device. Due to these differences, and in particular due to the fact that the document of Endo et al. does not even suggest a filter membrane comprising a material acting as a sterile boundary, it is believed that the presently claimed subject matter is both novel and non-obvious.

The examiner also rejected claims 1-5, 9, 14 and 15 under 35 U.S.C. 102(b) as being anticipated by Kenkyusho et al. (JP60219539). Kenkyusho et al. does not give any hint that the filter membrane comprises a material acting as a sterile boundary. Moreover, the element 4, which is only said to act as a filter, is not arranged within the sample probe, but on its edge. Also, referring to the reference numbers used in the document of Kenkyusho et al., the supply line 8 and the discharge line 7 seem to have been mixed up in the examiner's arguments, which therefore seems to be incorrect. Due to the basic difference of the claimed subject matter as compared to the device of Kenkyusho et al. that the filter membrane comprises a material acting as a sterile boundary, we also believe in this case that the claimed subject matter is both novel and non-obvious with respect to the Kenkyusho et al.

Applicants also point out that both of the references of Endo et al. and Kenkyusho et al. have been already cited in the International Search Report, but have been classified as merely belonging to the state of the art without any particular relevance.

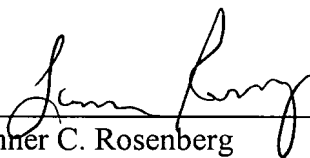
Thus, the independent claims 1 and 15 are not anticipated, and, therefore, are allowable. Consequently, the rejection of the various dependent claims as being either anticipated or obvious is also traversed. Therefore, it is respectfully submitted that the examiner should pass this application to allowance.

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No fees are believed due. If, however, the Commissioner believes any additional fees are due, the Commissioner is hereby authorized to charge any such fee deficiency, or credit any fee overpayment, to Deposit Account No. 14-0629.

Respectfully submitted,

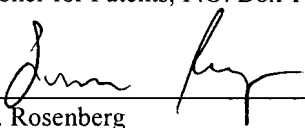
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